

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 26625 of 2003

Between:

G.Ranga Reddy S/o.G.R.Krishna Reddy
R/o.6/149, Proddatur, Kadapa District

..... PETITIONER

AND

- 1 The Regional transport Officer, Kadapa
- 2 APSRTC, rep. by its Managing Director, Musheerabad, Hyderabad.
(R-2 is impleaded as per Court Order, Dt. 24.8.2004 in WPMP.No. 14320 of 2004)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ o Mandamus declaring the order of the respondent herein passed in R.No.3016/A2/94, dated 10-11-2003 cancelling the temporary permit which is valid upto 12-1-2003 without providing an opportunity or notice to the petitioner, as illegal and arbitrary and consequently set aside the order of the respondent herein passed in R.No.3016/A2/94, dated 10-11-2003 and permit the petitioner to operate his vehicle AP 04/T 7551 on the deviated route Proddatur Light Palem Centre to Muddanur Via Yerraguntla.

Counsel for the Petitioner:MR.ARIFULLA

Counsel for the Respondent Nos.1 & 2: GP FOR TRANSPORT.

The Court made the following :

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ORDER:-

Heard both the learned counsel and at their request, the writ petition itself is taken up for disposal.

Petitioner herein, who is a Pucca Stage Carriage Permit Holder, filed this writ petition, inter alia, seeking to assail by way of writ of Mandamus the impugned order dated 10-11-2003 canceling the temporary permit granted to him, which is valid up to 12-1-2004.

The main grievance of the petitioner is that the impugned order is passed without any notice or opportunity to him. Further it is his case that all along he is holding pucca permit in the regular route. However, in view of the fact that the route in question is not motorable, he sought for temporary deviation of his existing route so as to ply the vehicle on the deviated route and accordingly the respondent granted temporary permit which is valid up to 12-1-2004. Accordingly, he has been plying the vehicle on the said deviated route. However, suddenly, the respondent cancelled the same without any notice to him. Hence the writ petition.

Learned Government Pleader for Transport appearing on behalf of the respondent submits that it is only due to the fact that the route which is not motorable is now motorable and therefore the question of deviation or extending the benefit to the petitioner does not arise. Hence the impugned order came to be passed.

Considering the submissions made on either side and on perusal of the material on record, it is seen that ex facie the impugned order does not show that there is any prior notice issued to the petitioner before passing the same. The license as granted under the provision of the Motor Vehicles Act creates a right, which cannot be disturbed without any basic opportunity. Even otherwise, the provisions under Section 86 of the Motor Vehicles Act are clear on this aspect.

Accordingly, this writ petition is allowed and the impugned order is set aside. The respondent is directed to pass orders afresh, after giving notice and opportunity to the petitioner, in accordance with law. No costs.

10—09—2004.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Friday, the tenth day of September Two thousand and four.

REGISTRAR

To

- 1 The Regional transport Officer, Kadapa
- 2 The APSRTC, rep. by its Managing Director, Musheerabad, Hyderabad.
- 3 Two CCs to the Government Pleader for Transport, High Court Building,
Hyderabad. (OUT).
- 4 Two C.D. copies.

Stv/-